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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,757	02/20/2001	Joshua Dickinson Kraft	JDK2000-002	5511

7590 08/20/2007
J.B.KRAFT
710 COLORADO ST.
SUITE 5C
AUSTIN, TX 87701

EXAMINER

NGUYEN, NGA B

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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08/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/785,757

Applicant(s)

KRAFT, JOSHUA DICKINSON

Examiner

Nga B. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 5, 2007 has been entered.
2. Claims 10-16 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 10-16 have been considered but are moot in view of new ground of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naim, U.S. Patent No. 6,694,200, in view of Harmon, U.S. Patent No. 6,002,640.

Regarding to claim 10, Naim discloses a method for selling manually portable audio devices housing a hard disk drive having several gigabytes of storage capacity for storing MP3 compressed data driving output devices comprising:

providing a database having a plurality of music titles, each title respectively represented by stored MP3 compressed digital data (column 9, lines 25-35, the data files can be downloaded using any standard download technique to the external communication device 11, that is coupled to a server having stored data and program files; column 12, lines 55-56, the audio file include MP3);

as an incentive to purchase said audio devices (column 2, lines 9-10, some vendors integrate a micro-drive into the portable device, thus it is obvious that the user must purchase the portable audio device from vendor before having the opportunity to download the music into the portable audio device), offering a purchasers of said manually portable audio device the opportunity to load at least several gigabytes of MP3 compressed data into the hard drive of a purchased manually audio device to thereby create a portable library of music titles within said portable audio device (column 9, lines 55-65, coupling the portable device to an external communications device, selecting one or more data and program files for download to the portable device, and storing the downloaded data and program files in the hard disk of the portable device);

enabling a purchaser of said manually portable audio device to select a set of said music titles (column 7, lines 25-35, the file descriptions include the name of song titles); and

in response to said selection of said set of music titles, enabling said purchaser to copy from said database, the MP3 compressed digital data representative of the set of purchaser selected music titles into said hard drive of said purchased audio device to thereby provide said purchaser with a manually portable audio device with said library (column 9, lines 55-65, coupling the portable device to an external communications device, selecting one or more data and program files for download to the portable device, and storing the downloaded data and program files in the hard disk of the portable device).

Naim does not disclose the hard disk drive of the portable audio device having 10 gigabytes. However, Harmon the hard disk drive of the portable device having 10 gigabytes (figure 7 and column 7, lines 55-65, the portable DTU 700 include the hard disk drive 742 is 10 gigabytes of data). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Naim's by replacing the hard disk with larger storage capacity of 10 gigabytes as taught by Harmon, for the purpose of extending the storage capacity of a hard drive, thus enabling the user can stores larger amount of MP3 compressed audio data in the portable audio player for playing back.

Regarding to claims 11-12, Naim further discloses wherein access to said database is provided via a communication network and wherein said network is the Internet (column 9, lines 30-35, downloading data and files via the Internet).

Regarding to claim 13, Naim further discloses enabling a carrier of said manually portable audio device to choose music titles from said portable library; and

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storing said chosen titles in portable device memory during presentation of said music titles (column 7, lines 5-15, the user chooses a play-list from the library of records stored on the hard disk of the portable device, the play-list and programs are transferred from the hard dish to the memory).

Regarding to claim 14, Naim further discloses driving the audio output of said of said manually portable audio device with analog data (column 9, lines 40-45, creating analog audio/music signals and directing them to one or more of the earphone/speaker output).

Regarding to claim 15, Naim further discloses converting said MP3 compressed digital data into said analog data (column 5, lines 5-10, the D/A converter 20 converts the digital data form digital format into analog signals).

Regarding to claim 16, Naim further discloses converting the MP3 compressed digital data representative of said chosen titles stored in said memory into said analog data; and driving the audio output of said of said manually portable audio device with analog data to thereby present said chosen titles (column 5, lines 5-10, the D/A converter 20 converts the digital data form digital format into analog signals; column 9, lines 40-45, creating analog audio/music signals and directing them to one or more of the earphone/speaker output).

Conclusion

6. Claims 10-16 are rejected.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450

Washington, DC 22313-1450

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label

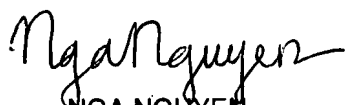
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox Building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

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A handwritten signature in black ink, appearing to read 'Nga Nguyen', with a stylized, flowing script.

NGA NGUYEN
PRIMARY EXAMINER

August 15, 2007